

EXHIBIT “B”
Answer Second Amended Complaint
(HARD/Hart)

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HAYWARD AREA RECREATION AND PARK
DISTRICT and KEVIN HART

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH P. CUVIELLO and DENIZ
BOLBOL, individually,

Plaintiff,

v.

ROWELL RANCH RODEO, INC.,
HAYWARD AREA RECREATION AND
PARK DISTRICT, HAYWARD AREA
RECREATION AND PARK DISTRICT
PUBLIC SAFETY
MANAGER/RANGER KEVIN HART,
and DOES 1 and 2, in their individually
and official capacities, jointly and
severally,

Defendants.

Case No. 3:23-cv-01652-VC

**DEFENDANTS HAYWARD AREA
RECREATION AND PARK DISTRICT and
KEVIN HART'S ANSWER TO SECOND
AMENDED COMPLAINT**

DEMAND FOR JURY TRIAL

Come now defendants HAYWARD AREA RECREATION AND PARK DISTRICT and
KEVIN HART ("defendants") in answer to first amended complaint on file by plaintiffs JOSEPH
P. CUVIELLO and DENIZ BOLBOL ("plaintiffs"), herein admit and allege as follows:

JURISDICTION AND VENUE

1. In answer to the allegations of paragraph 1 of the complaint, these defendants have no
information or belief to enable them to answer said allegations, and for that reason and basing
their denial on that ground, deny both generally and specifically, each and every, all and singular,
the allegations contained therein.

5. In answer to the allegations of paragraph 4 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

9. In answer to the allegations of paragraph 9 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing

1 their denial on that ground, deny both generally and specifically, each and every, all and singular,
2 the allegations contained therein.

3 10. In answer to the allegations of paragraph 10 of the complaint, these defendants have no
4 information or belief to enable them to answer said allegations, and for that reason and basing
5 their denial on that ground, deny both generally and specifically, each and every, all and singular,
6 the allegations contained therein.

7 11. In answer to the allegations of paragraph 11 of the complaint, these defendants have no
8 information or belief to enable them to answer said allegations, and for that reason and basing
9 their denial on that ground, deny both generally and specifically, each and every, all and singular,
10 the allegations contained therein.

11 12. In answer to the allegations of paragraph 12 of the complaint, these defendants have no
12 information or belief to enable them to answer said allegations, and for that reason and basing
13 their denial on that ground, deny both generally and specifically, each and every, all and singular,
14 the allegations contained therein.

15 13. In answer to the allegations of paragraph 13 of the complaint, these defendants have no
16 information or belief to enable them to answer said allegations, and for that reason and basing
17 their denial on that ground, deny both generally and specifically, each and every, all and singular,
18 the allegations contained therein.

19 14. In answer to the allegations of paragraph 14 of the complaint, these defendants have no
20 information or belief to enable them to answer said allegations, and for that reason and basing
21 their denial on that ground, deny both generally and specifically, each and every, all and singular,
22 the allegations contained therein.

23 **LEGAL FRAMEWORK**

24 ***California Law***

25 15. Defendants admit the allegations in Paragraph 15 of the Complaint.

26 16. Defendants admit the allegations in Paragraph 16 of the Complaint.

27 17. Defendants admit the allegations in Paragraph 17 of the Complaint.

28 18. Defendants admit the allegations in Paragraph 18 of the Complaint.

19. In answer to the allegations of paragraph 19 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

20. Defendants admit the allegations in Paragraph 20 of the Complaint.

21. Defendants admit the allegations in Paragraph 21 of the Complaint.

22. In answer to the allegations of paragraph 22 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

Federal Law

23. Defendants admit the allegations in Paragraph 23 of the Complaint.

24. Defendants admit the allegations in Paragraph 24 of the Complaint.

25. In answer to the allegations of paragraph 25 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

26. In answer to the allegations of paragraph 26 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

FACTUAL ALLEGATIONS

27. In answer to the allegations of paragraph 27 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

28. In answer to the allegations of paragraph 28 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing

1 their denial on that ground, deny both generally and specifically, each and every, all and singular,
2 the allegations contained therein.

3 29. In answer to the allegations of paragraph 29 of the complaint, these defendants have no
4 information or belief to enable them to answer said allegations, and for that reason and basing
5 their denial on that ground, deny both generally and specifically, each and every, all and singular,
6 the allegations contained therein.

7 30. In answer to the allegations of paragraph 30 of the complaint, these defendants have no
8 information or belief to enable them to answer said allegations, and for that reason and basing
9 their denial on that ground, deny both generally and specifically, each and every, all and singular,
10 the allegations contained therein.

11 31. In answer to the allegations of paragraph 31 of the complaint, these defendants have no
12 information or belief to enable them to answer said allegations, and for that reason and basing
13 their denial on that ground, deny both generally and specifically, each and every, all and singular,
14 the allegations contained therein.

15 32. In answer to the allegations of paragraph 32 of the complaint, these defendants have no
16 information or belief to enable them to answer said allegations, and for that reason and basing
17 their denial on that ground, deny both generally and specifically, each and every, all and singular,
18 the allegations contained therein.

19 33. Defendants admit the allegations in Paragraph 33 of the Complaint.

20 34. In answer to the allegations of paragraph 34 of the complaint, these defendants have no
21 information or belief to enable them to answer said allegations, and for that reason and basing
22 their denial on that ground, deny both generally and specifically, each and every, all and singular,
23 the allegations contained therein.

24 35. In answer to the allegations of paragraph 35 of the complaint, these defendants have no
25 information or belief to enable them to answer said allegations, and for that reason and basing
26 their denial on that ground, deny both generally and specifically, each and every, all and singular,
27 the allegations contained therein.

28 36. In answer to the allegations of paragraph 36 of the complaint, these defendants have no

1 information or belief to enable them to answer said allegations, and for that reason and basing
2 their denial on that ground, deny both generally and specifically, each and every, all and singular,
3 the allegations contained therein.

4 37. In answer to the allegations of paragraph 37 of the complaint, these defendants have no
5 information or belief to enable them to answer said allegations, and for that reason and basing
6 their denial on that ground, deny both generally and specifically, each and every, all and singular,
7 the allegations contained therein.

8 38. In answer to the allegations of paragraph 38 of the complaint, these defendants have no
9 information or belief to enable them to answer said allegations, and for that reason and basing
10 their denial on that ground, deny both generally and specifically, each and every, all and singular,
11 the allegations contained therein.

12 ***Events Of May 20, 2022***

13 39. In answer to the allegations of paragraph 39 of the complaint, these defendants have no
14 information or belief to enable them to answer said allegations, and for that reason and basing
15 their denial on that ground, deny both generally and specifically, each and every, all and singular,
16 the allegations contained therein.

17 40. In answer to the allegations of paragraph 40 of the complaint, these defendants have no
18 information or belief to enable them to answer said allegations, and for that reason and basing
19 their denial on that ground, deny both generally and specifically, each and every, all and singular,
20 the allegations contained therein.

21 41. In answer to the allegations of paragraph 41 of the complaint, these defendants have no
22 information or belief to enable them to answer said allegations, and for that reason and basing
23 their denial on that ground, deny both generally and specifically, each and every, all and singular,
24 the allegations contained therein.

25 42. In answer to the allegations of paragraph 42 of the complaint, these defendants have no
26 information or belief to enable them to answer said allegations, and for that reason and basing
27 their denial on that ground, deny both generally and specifically, each and every, all and singular,
28 the allegations contained therein.

43. In answer to the allegations of paragraph 43 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

44. In answer to the allegations of paragraph 41 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

45. In answer to the allegations of paragraph 45 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

46. In answer to the allegations of paragraph 46 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

47. In answer to the allegations of paragraph 47 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

48. In answer to the allegations of paragraph 48 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

49. In answer to the allegations of paragraph 49 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

1 50. In answer to the allegations of paragraph 50 of the complaint, these defendants have no
2 information or belief to enable them to answer said allegations, and for that reason and basing
3 their denial on that ground, deny both generally and specifically, each and every, all and singular,
4 the allegations contained therein.

5 51. In answer to the allegations of paragraph 51 of the complaint, these defendants have no
6 information or belief to enable them to answer said allegations, and for that reason and basing
7 their denial on that ground, deny both generally and specifically, each and every, all and singular,
8 the allegations contained therein.

9 52. In answer to the allegations of paragraph 52 of the complaint, these defendants have no
10 information or belief to enable them to answer said allegations, and for that reason and basing
11 their denial on that ground, deny both generally and specifically, each and every, all and singular,
12 the allegations contained therein.

13 53. In answer to the allegations of paragraph 53 of the complaint, these defendants have no
14 information or belief to enable them to answer said allegations, and for that reason and basing
15 their denial on that ground, deny both generally and specifically, each and every, all and singular,
16 the allegations contained therein.

17 54. In answer to the allegations of paragraph 54 of the complaint, these defendants have no
18 information or belief to enable them to answer said allegations, and for that reason and basing
19 their denial on that ground, deny both generally and specifically, each and every, all and singular,
20 the allegations contained therein.

21 55. In answer to the allegations of paragraph 55 of the complaint, these defendants have no
22 information or belief to enable them to answer said allegations, and for that reason and basing
23 their denial on that ground, deny both generally and specifically, each and every, all and singular,
24 the allegations contained therein.

25 56. In answer to the allegations of paragraph 56 of the complaint, these defendants have no
26 information or belief to enable them to answer said allegations, and for that reason and basing
27 their denial on that ground, deny both generally and specifically, each and every, all and singular,
28 the allegations contained therein.

57. In answer to the allegations of paragraph 57 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

58. In answer to the allegations of paragraph 58 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

59. In answer to the allegations of paragraph 59 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

60. In answer to the allegations of paragraph 60 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

61. In answer to the allegations of paragraph 61 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

62. In answer to the allegations of paragraph 62 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

Events Of May 21, 2022

63. In answer to the allegations of paragraph 63 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular,

1 the allegations contained therein.

2 64. In answer to the allegations of paragraph 64 of the complaint, these defendants have no
3 information or belief to enable them to answer said allegations, and for that reason and basing
4 their denial on that ground, deny both generally and specifically, each and every, all and singular,
5 the allegations contained therein.

6 65. In answer to the allegations of paragraph 65 of the complaint, these defendants have no
7 information or belief to enable them to answer said allegations, and for that reason and basing
8 their denial on that ground, deny both generally and specifically, each and every, all and singular,
9 the allegations contained therein.

10 66. In answer to the allegations of paragraph 66 of the complaint, these defendants have no
11 information or belief to enable them to answer said allegations, and for that reason and basing
12 their denial on that ground, deny both generally and specifically, each and every, all and singular,
13 the allegations contained therein.

14 67. In answer to the allegations of paragraph 67 of the complaint, these defendants have no
15 information or belief to enable them to answer said allegations, and for that reason and basing
16 their denial on that ground, deny both generally and specifically, each and every, all and singular,
17 the allegations contained therein.

18 ***PLAINTIFFS' Constitutional Rights***

19 68. In answer to the allegations of paragraph 68 of the complaint, these defendants have no
20 information or belief to enable them to answer said allegations, and for that reason and basing
21 their denial on that ground, deny both generally and specifically, each and every, all and singular,
22 the allegations contained therein.

23 69. In answer to the allegations of paragraph 69 of the complaint, these defendants have no
24 information or belief to enable them to answer said allegations, and for that reason and basing
25 their denial on that ground, deny both generally and specifically, each and every, all and singular,
26 the allegations contained therein.

27 70. In answer to the allegations of paragraph 70 of the complaint, these defendants have no
28 information or belief to enable them to answer said allegations, and for that reason and basing

1 their denial on that ground, deny both generally and specifically, each and every, all and singular,
2 the allegations contained therein.

3 71. In answer to the allegations of paragraph 71 of the complaint, these defendants have no
4 information or belief to enable them to answer said allegations, and for that reason and basing
5 their denial on that ground, deny both generally and specifically, each and every, all and singular,
6 the allegations contained therein.

7 72. In answer to the allegations of paragraph 72 of the complaint, these defendants have no
8 information or belief to enable them to answer said allegations, and for that reason and basing
9 their denial on that ground, deny both generally and specifically, each and every, all and singular,
10 the allegations contained therein.

11 73. In answer to the allegations of paragraph 73 of the complaint, these defendants have no
12 information or belief to enable them to answer said allegations, and for that reason and basing
13 their denial on that ground, deny both generally and specifically, each and every, all and singular,
14 the allegations contained therein.

15 74. In answer to the allegations of paragraph 74 of the complaint, these defendants have no
16 information or belief to enable them to answer said allegations, and for that reason and basing
17 their denial on that ground, deny both generally and specifically, each and every, all and singular,
18 the allegations contained therein.

19 75. In answer to the allegations of paragraph 75 of the complaint, these defendants have no
20 information or belief to enable them to answer said allegations, and for that reason and basing
21 their denial on that ground, deny both generally and specifically, each and every, all and singular,
22 the allegations contained therein.

23 76. In answer to the allegations of paragraph 76 of the complaint, these defendants have no
24 information or belief to enable them to answer said allegations, and for that reason and basing
25 their denial on that ground, deny both generally and specifically, each and every, all and singular,
26 the allegations contained therein.

27 77. In answer to the allegations of paragraph 77 of the complaint, these defendants have no
28 information or belief to enable them to answer said allegations, and for that reason and basing

1 their denial on that ground, deny both generally and specifically, each and every, all and singular,
2 the allegations contained therein.

3
4 **FIRST CAUSE OF ACTION**
5 **Assault**
6 **(PLAINTIFF JOSEPH CUVIELLO Against DOE DEFENDANT 1**
7 **and PLAINTIFF DENIZ BOLBOL Against DOE DEFENDANT 2)**

8 78. In answer to the allegations of paragraph 78 of the complaint, these defendants have no
9 information or belief to enable them to answer said allegations, and for that reason and basing
10 their denial on that ground, deny both generally and specifically, each and every, all and singular,
11 the allegations contained therein.

12 79. Defendants admit the allegations in Paragraph 79 of the Complaint.

13 80. In answer to the allegations of paragraph 80 of the complaint, these defendants have no
14 information or belief to enable them to answer said allegations, and for that reason and basing
15 their denial on that ground, deny both generally and specifically, each and every, all and singular,
16 the allegations contained therein.

17 81. In answer to the allegations of paragraph 81 of the complaint, these defendants have no
18 information or belief to enable them to answer said allegations, and for that reason and basing
19 their denial on that ground, deny both generally and specifically, each and every, all and singular,
20 the allegations contained therein.

21 82. In answer to the allegations of paragraph 82 of the complaint, these defendants have no
22 information or belief to enable them to answer said allegations, and for that reason and basing
23 their denial on that ground, deny both generally and specifically, each and every, all and singular,
24 the allegations contained therein.

25 83. In answer to the allegations of paragraph 83 of the complaint, these defendants have no
26 information or belief to enable them to answer said allegations, and for that reason and basing
27 their denial on that ground, deny both generally and specifically, each and every, all and singular,
28 the allegations contained therein.

84. In answer to the allegations of paragraph 84 of the complaint, these defendants have no
information or belief to enable them to answer said allegations, and for that reason and basing

1 their denial on that ground, deny both generally and specifically, each and every, all and singular,
2 the allegations contained therein.

3 4 SECOND CAUSE OF ACTION

Battery

5 (PLAINTIFF JOSEPH CUVIELLO against DOE DEFENDANT 1 6 and PLAINTIFF DEDNIZ BOLBOL Against DOE DEFENDANT 2)

7 85. In answer to the allegations of paragraph 85 of the complaint, these defendants have no
8 information or belief to enable them to answer said allegations, and for that reason and basing
9 their denial on that ground, deny both generally and specifically, each and every, all and singular,
10 the allegations contained therein.

11 86. Defendants admit the allegations in Paragraph 86 of the Complaint.

12 87. In answer to the allegations of paragraph 87 of the complaint, these defendants have no
13 information or belief to enable them to answer said allegations, and for that reason and basing
14 their denial on that ground, deny both generally and specifically, each and every, all and singular,
15 the allegations contained therein.

16 88. In answer to the allegations of paragraph 88 of the complaint, these defendants have no
17 information or belief to enable them to answer said allegations, and for that reason and basing
18 their denial on that ground, deny both generally and specifically, each and every, all and singular,
19 the allegations contained therein.

20 89. In answer to the allegations of paragraph 89 of the complaint, these defendants have no
21 information or belief to enable them to answer said allegations, and for that reason and basing
22 their denial on that ground, deny both generally and specifically, each and every, all and singular,
23 the allegations contained therein.

24 90. In answer to the allegations of paragraph 90 of the complaint, these defendants have no
25 information or belief to enable them to answer said allegations, and for that reason and basing
26 their denial on that ground, deny both generally and specifically, each and every, all and singular,
27 the allegations contained therein.

28 91. In answer to the allegations of paragraph 91 of the complaint, these defendants have no

information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

THIRD CAUSE OF ACTION

Violation of California Civil Code, section 52.1 (c) Injunctive and Declaratory Relief (ALL PLAINTIFFS Against ALL DEFENDANTS)

92. In answer to the allegations of paragraph 92 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

93. Defendants admit the allegations in Paragraph 93 of the Complaint.

94. In answer to the allegations of paragraph 94 of the complaint, these defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

95. In answer to the allegations of paragraph 95 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

96. In answer to the allegations of paragraph 96 of the complaint, these defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

97. In answer to the allegations of paragraph 97 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

98. In answer to the allegations of paragraph 98 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

1 99. In answer to the allegations of paragraph 99 of the complaint, these defendants have no
2 information or belief to enable them to answer said allegations, and for that reason and basing
3 their denial on that ground, deny both generally and specifically, each and every, all and singular,
4 the allegations contained therein.

5 100. In answer to the allegations of paragraph 100 of the complaint, these defendants have no
6 information or belief to enable them to answer said allegations, and for that reason and basing
7 their denial on that ground, deny both generally and specifically, each and every, all and singular,
8 the allegations contained therein.

9 101. In answer to the allegations of paragraph 101 of the complaint, these defendants have no
10 information or belief to enable them to answer said allegations, and for that reason and basing
11 their denial on that ground, deny both generally and specifically, each and every, all and singular,
12 the allegations contained therein.

13 102. In answer to the allegations of paragraph 102 of the complaint, these defendants have no
14 information or belief to enable them to answer said allegations, and for that reason and basing
15 their denial on that ground, deny both generally and specifically, each and every, all and singular,
16 the allegations contained therein.

17 103. In answer to the allegations of paragraph 103 of the complaint, these defendants have no
18 information or belief to enable them to answer said allegations, and for that reason and basing
19 their denial on that ground, deny both generally and specifically, each and every, all and singular,
20 the allegations contained therein.

21 104. In answer to the allegations of paragraph 104 of the complaint, these defendants have no
22 information or belief to enable them to answer said allegations, and for that reason and basing
23 their denial on that ground, deny both generally and specifically, each and every, all and singular,
24 the allegations contained therein.

25 105. In answer to the allegations of paragraph 105 of the complaint, these defendants have no
26 information or belief to enable them to answer said allegations, and for that reason and basing
27 their denial on that ground, deny both generally and specifically, each and every, all and singular,
28 the allegations contained therein.

106. In answer to the allegations of paragraph 106 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

FOURTH CAUSE OF ACTION

Violation of California Civil Code, Section 51.7 Injunctive Relief under Code of Civil Procedure, section 526 (ALL PLAINTIFFS Against DOE DEFENDANT 1)

107. In answer to the allegations of paragraph 107 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

108. In answer to the allegations of paragraph 108 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

109. Defendants admit the allegations in Paragraph 109 of the Complaint.

110. In answer to the allegations of paragraph 110 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

111. In answer to the allegations of paragraph 111 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

112. In answer to the allegations of paragraph 112 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

1 113. In answer to the allegations of paragraph 113 of the complaint, these defendants have no
2 information or belief to enable them to answer said allegations, and for that reason and basing
3 their denial on that ground, deny both generally and specifically, each and every, all and singular,
4 the allegations contained therein.

5 114. In answer to the allegations of paragraph 114 of the complaint, these defendants have no
6 information or belief to enable them to answer said allegations, and for that reason and basing
7 their denial on that ground, deny both generally and specifically, each and every, all and singular,
8 the allegations contained therein.

9 115. In answer to the allegations of paragraph 115 of the complaint, these defendants have no
10 information or belief to enable them to answer said allegations, and for that reason and basing
11 their denial on that ground, deny both generally and specifically, each and every, all and singular,
12 the allegations contained therein.

13 116. In answer to the allegations of paragraph 116 of the complaint, these defendants have no
14 information or belief to enable them to answer said allegations, and for that reason and basing
15 their denial on that ground, deny both generally and specifically, each and every, all and singular,
16 the allegations contained therein.

17 117. In answer to the allegations of paragraph 117 of the complaint, these defendants have no
18 information or belief to enable them to answer said allegations, and for that reason and basing
19 their denial on that ground, deny both generally and specifically, each and every, all and singular,
20 the allegations contained therein.

21 118. In answer to the allegations of paragraph 118 of the complaint, these defendants have no
22 information or belief to enable them to answer said allegations, and for that reason and basing
23 their denial on that ground, deny both generally and specifically, each and every, all and singular,
24 the allegations contained therein.

25 ///

26 ///

27 ///

28 ///

FIFTH CAUSE OF ACTION
Violation of Article I, Section 2(a) of the California State Constitution
Injunctive Relief under California Civil Code, section 52.1 & Code of Civil
Procedure, section 526
(All PLAINTIFFS Against All DEFENDANTS)

119. In answer to the allegations of paragraph 119 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

120. Defendants admit the allegations in Paragraph 120 of the Complaint.

121. Defendants admit the allegations in Paragraph 121 of the Complaint.

122. In answer to the allegations of paragraph 122 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

123. In answer to the allegations of paragraph 123 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

124. In answer to the allegations of paragraph 124 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

125. In answer to the allegations of paragraph 125 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

126. In answer to the allegations of paragraph 126 of the complaint, these defendants have no information or belief to enable them to answer said allegations, and for that reason and basing

1 their denial on that ground, deny both generally and specifically, each and every, all and singular,
 2 the allegations contained therein.

3 127. In answer to the allegations of paragraph 127 of the complaint, these defendants have no
 4 information or belief to enable them to answer said allegations, and for that reason and basing
 5 their denial on that ground, deny both generally and specifically, each and every, all and singular,
 6 the allegations contained therein.

7
 8 **SIXTH CAUSE OF ACTION**
 9 **Violation of First Amendment, as applied to the states under the Fourteenth Amendment**
 10 **Injunctive Relief under 42 U.S.C § 1983**
 11 **Declaratory Relief Under 28 U.S.C. § 2201 (a)**
 12 **(ALL PLAINTIFFS Against DEFENDANTS ROWELL RANCH RODEO, INC.,**
 13 **HARD, and HART)**

14 128. In answer to the allegations of paragraph 128 of the complaint, these defendants have no
 15 information or belief to enable them to answer said allegations, and for that reason and basing
 16 their denial on that ground, deny both generally and specifically, each and every, all and singular,
 17 the allegations contained therein.

18 129. In answer to the allegations of paragraph 129 of the complaint, these defendants have no
 19 information or belief to enable them to answer said allegations, and for that reason and basing
 20 their denial on that ground, deny both generally and specifically, each and every, all and singular,
 21 the allegations contained therein.

22 130. Defendants admit the allegations in Paragraph 130 of the Complaint.

23 131. In answer to the allegations of paragraph 131 of the complaint, these defendants have no
 24 information or belief to enable them to answer said allegations, and for that reason and basing
 25 their denial on that ground, deny both generally and specifically, each and every, all and singular,
 26 the allegations contained therein.

27 132. In answer to the allegations of paragraph 132 of the complaint, these defendants have no
 28 information or belief to enable them to answer said allegations, and for that reason and basing
 their denial on that ground, deny both generally and specifically, each and every, all and singular,
 the allegations contained therein.

1 133. In answer to the allegations of paragraph 133 of the complaint, these defendants have no
2 information or belief to enable them to answer said allegations, and for that reason and basing
3 their denial on that ground, deny both generally and specifically, each and every, all and singular,
4 the allegations contained therein.

5 134. In answer to the allegations of paragraph 134 of the complaint, these defendants have no
6 information or belief to enable them to answer said allegations, and for that reason and basing
7 their denial on that ground, deny both generally and specifically, each and every, all and singular,
8 the allegations contained therein.

9 135. In answer to the allegations of paragraph 135 of the complaint, these defendants have no
10 information or belief to enable them to answer said allegations, and for that reason and basing
11 their denial on that ground, deny both generally and specifically, each and every, all and singular,
12 the allegations contained therein.

13 136. In answer to the allegations of paragraph 136 of the complaint, these defendants have no
14 information or belief to enable them to answer said allegations, and for that reason and basing
15 their denial on that ground, deny both generally and specifically, each and every, all and singular,
16 the allegations contained therein.

17 137. In answer to the allegations of paragraph 137 of the complaint, these defendants have no
18 information or belief to enable them to answer said allegations, and for that reason and basing
19 their denial on that ground, deny both generally and specifically, each and every, all and singular,
20 the allegations contained therein.

21 138. In answer to the allegations of paragraph 138 of the complaint, these defendants have no
22 information or belief to enable them to answer said allegations, and for that reason and basing
23 their denial on that ground, deny both generally and specifically, each and every, all and singular,
24 the allegations contained therein.

25 139. In answer to the allegations of paragraph 139 of the complaint, these defendants have no
26 information or belief to enable them to answer said allegations, and for that reason and basing
27 their denial on that ground, deny both generally and specifically, each and every, all and singular,
28 the allegations contained therein.

1 FIRST AFFIRMATIVE DEFENSE

2 AS AND FOR A FIRST, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
3 ALLEGES:

4 That plaintiffs were themselves negligent and careless in and about the matters and events
5 set forth in the complaint, and that said negligence contributed to their alleged injuries and/or
6 damages. A verdict of the jury in favor of plaintiffs, if any, which may be rendered in this case
7 must therefore be reduced by the percentage that plaintiffs' negligence contributed to the accident
8 and injuries complained of, if any there were.

9 SECOND AFFIRMATIVE DEFENSE

10 AS AND FOR A THIRD, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
11 ALLEGES:

12 That the complaint does not state facts sufficient to constitute a cause of action against
13 these answering defendants.

14 FOURTH AFFIRMATIVE DEFENSE

15 AS AND FOR A THIRD, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
16 ALLEGES:

17 Plaintiff's cause of action is barred by reason of the provisions of California Code of Civil
18 Procedure sections 335.1, 340, and 343.

19
20 FIFTH AFFIRMATIVE DEFENSE

21 AS AND FOR A FOURTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
22 ALLEGES:

23 Plaintiff's cause of action is barred by the statute(s) of limitations as set forth in
24 Government Code Sections 901, 945.4, 945.6, 945.8, and all other applicable statutes of
25 limitations.

26 SIXTH AFFIRMATIVE DEFENSE

27 AS AND FOR A SECOND, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
28 ALLEGES:

1 Plaintiffs were guilty of willful misconduct and wanton and reckless behavior in and about
2 the matters and events set forth in said complaint; and that said willful misconduct and wanton
3 and reckless behavior contributed to the injuries and damages alleged, if any there were.

4 SEVENTH AFFIRMATIVE DEFENSE

5 AS AND FOR A THIRD, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
6 ALLEGES:

7 This answering defendant, a public entity, is immune from liability pursuant to California
8 Government Code sections 800 et seq.

9 EIGHTH AFFIRMATIVE DEFENSE

10 AS AND FOR A FOURTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
11 ALLEGES:

12 Any and all acts or omissions of defendant HAYWARD AREA RECREATION AND
13 PARK DISTRICT, its agents and employees, which allegedly caused the injury at the time and
14 place set forth were the result of an exercise of discretion vested in them.

15 NINTH AFFIRMATIVE DEFENSE

16 AS AND FOR A FIFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
17 ALLEGES:

18 At all times mentioned in the complaint, defendant KEVIN HART was a public employee
19 of HAYWARD AREA RECREATION AND PARK DISTRICT and if he performed any of the
20 acts or omissions alleged as the basis of the complaint, the acts or omissions were the result of the
21 exercise of the discretion vested in him. Defendant is therefore immune from liability.

22 TENTH AFFIRMATIVE DEFENSE

23 AS AND FOR A SIXTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
24 ALLEGES:

25 At all times mentioned in the complaint, defendant HAYWARD AREA RECREATION
26 AND PARK DISTRICT is not liable for any of these acts or omissions alleged in the complaint
27 because the complaint only alleges that defendant HAYWARD AREA RECREATION AND
28 PARK DISTRICT is liable based on the acts or omissions of others.

ELEVENTH AFFIRMATIVE DEFENSE

AS AND FOR A SEVENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

At all times mentioned in the complaint, defendant KEVIN HART was a public employee of HAYWARD AREA RECREATION AND PARK DISTRICT and, as such, is not liable for any of these acts or omissions alleged in the complaint because the complaint only alleges that defendant KEVIN HART is liable based on the acts or omissions of others.

TWELFTH AFFIRMATIVE DEFENSE

AS AND FOR A EIGHTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Defendant alleges that plaintiff failed to set forth the facts sufficient to state a cause of action due to a failure to comply with claims requirements of the California Government Code §§ 900 et. seq.

THIRTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A NINTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Any and all mandatory duties imposed upon defendant HAYWARD AREA RECREATION AND PARK DISTRICT, its agents and employees, the failure of which allegedly created the condition complained of, were exercised with reasonable diligence and therefore defendant HAYWARD AREA RECREATION AND PARK DISTRICT is not liable pursuant to Government Code § 815.6.

FOURTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A TENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Should plaintiffs recover non-economic damages against any defendant, the liability for non-economic damages is limited to the degree of fault and several liability of said defendant pursuant to Civil Code section 1431.2 and a separate, several judgment shall be rendered against said defendant based upon said defendant's degree of fault and several liability.

FIFTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A ELEVENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

Defendants alleged employee mentioned in plaintiff's complaint was, at all times, duly qualified, appointed and acting peace officer of HAYWARD AREA RECREATION AND PARK DISTRICT and peace officer of the State of California and in accordance with the Constitution of the United States and the State of California and the laws of the United States and the laws of the State of California; and at all times mentioned herein, said officer was engaged in the performance of his regularly assigned duties within the scope of his duties as peace officer of HAYWARD AREA RECREATION AND PARK DISTRICT.

SIXTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A TWELFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

These answering defendants acted in good faith and with a reasonable belief that the actions were lawful and further did not directly or indirectly perform any acts whatsoever which would constitute a breach of any duty owed to plaintiffs.

SEVENTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A THIRTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

The acts of these answering defendants were lawful and proper and in all respects was reasonable and legal.

EIGHTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A FOURTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT ALLEGES:

These answering defendants are immune from liability pursuant to the provisions of §§ 815, 815.2, 818, 820.2, 820.4, 820.6, 820.8, 820.9, 821.6, 844.6, and 845.6 of the Government Code of the State of California.

NINETEENTH AFFIRMATIVE DEFENSE

1 AS AND FOR A FIFTEENTH, SEPARATE AND DISTINCT DEFENSE,
 2 DEFENDANT ALLEGES:

3 Defendants are immune from 42 U.S.C. §1983 liability pursuant to the doctrine of
 4 qualified immunity. See *White v. Pauly*, 137 S. Ct. 548 (2017), *Ashcroft v. al-Kidd*, 563 U.S. 731
 5 (2011) and *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).

6 TWENTIETH AFFIRMATIVE DEFENSE

7 AS AND FOR A SIXTEENTH, SEPARATE AND DISTINCT DEFENSE,
 8 DEFENDANT ALLEGES:

9 The facts alleged in the Complaint do not involve any custom, practice, procedure or
 10 regulation of defendants, which gives rise to a violation of a constitutional right pursuant to
 11 *Monell v. New York City Department of Social Services*, 436 U.S. 658 (1978).

12 TWENTY-FIRST AFFIRMATIVE DEFENSE

13 AS AND FOR A SEVENTEENTH, SEPARATE AND DISTINCT DEFENSE,
 14 DEFENDANT ALLEGES:

15 Plaintiffs has wholly failed to plead facts which give rise to any colorable claim for
 16 punitive or exemplary damages against defendants, nor do any such facts exist.

17 TWENTY-SECOND AFFIRMATIVE DEFENSE

18 AS AND FOR A EIGHTEENTH, SEPARATE AND DISTINCT DEFENSE,
 19 DEFENDANT ALLEGES:

20 Plaintiff's claims for punitive or exemplary damages violate defendants' right to
 21 procedural due process, substantive due process, and protection from "excessive" fines as
 22 guaranteed by the Fifth, Fourteenth, and Eighth Amendments to the United States Constitution,
 23 respectively, and the Constitution of the State of California.

24 ///

25 ///

26 ///

27 ///

28 ///

WHEREFORE, defendants prays that plaintiffs take nothing by way of the complaint on file herein and that defendants have judgment for their costs, attorneys' fees and for such other and further relief as the court deems proper.

Dated: July 5, 2023

Respectfully submitted,
ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

By: /s/ Dale Allen
DALE L. ALLEN, JR.
Attorneys for Defendant
HAYWARD AREA RECREATION AND
PARK DISTRICT and KEVIN HART

DEMAND FOR JURY TRIAL

Defendants HAYWARD AREA RECREATION AND PARK DISTRICT and KEVIN HART hereby demand a jury trial.

Dated: July 5, 2023

Respectfully submitted,
ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

By: /s/ Dale Allen
DALE L. ALLEN, JR.
Attorneys for Defendant
HAYWARD AREA RECREATION AND
PARK DISTRICT and KEVIN HART

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